

REMARKS

Status of the Claims

In the Office Action, claims 1-27 were noted as pending in the application. All claims stand rejected.

A. Summary of Cited References

Before addressing the Examiner's rejections, a brief summary of the cited references is provided.

Liva - U.S. Publication Number 2002/0093966

Liva, which is cited by Examiner as the basis for the obviousness rejection has a filing date later than the filing date of the present application. Thus, standing on its filing date alone, Liva cannot be cited as prior art. However, Liva claims priority to multiple U.S. patent applications. Only one of these, a provisional application for patent having serial number 60/187,194 ("194"), has a filing date prior to the filing date of the present application. Specifically, the chain of priority of Liva to '194 is as follows: Liva is a "[c]ontinuation in part of application number 09/800,397 ("397"), filed on March 5, 2001, which is a non-provisional of provisional application 60/187,194, filed on March 6, 2000." Cover page of Liva. Accordingly, only subject matter contained in '194 can be asserted via Liva against the present application.

Applicant has reviewed '397 to determine the subject matter discussed in '194. Furthermore, the title of '194 is "frequency agile digital transceiver banks having nonuniform channel width and reduced connector density." The '397 application is titled "Transceiver channel bank with reduced connector density." Thus, because the titles of the provisional '194 and the non-provision that claims priority thereto are titled similarly, it follows that '397 discusses all of the subject matter that may have been contained in '194. Accordingly, a discussion of Sharma, the '397 application follows.

Sharma, the '397 application

Sharma relates to reducing connector density of a CMTS channel card by digitally multiplexing multiple upstream channels being transmitted from the card so their signals can be transmitted from a single connector of the card. Abstract. The multiplexed channel signals are then bussed to the input of multiple digital receivers. *Id.*

Clement - U.S. Patent number 5,726,668

Clement relates to a programmable graphics display system using lighted display panels to communicate information concerning the status of various processes in a chemical plant environment. Abstract; col. 1, lines 1-15. A processor associated with the programmable display reduces processor load on other devices in a system that monitors the various processes. Col. 1, lines 49-55.

E. Rejection of Claims under 35 U.S.C. § 103(a).

Applicant respectfully submits that the subject matter of the claims patentably distinguish over the cited references. Under MPEP § 2142, for an examiner to establish a *prima facie* case of obviousness, "three basic criteria must be met. First, there must be

some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure." If any of these three criteria are not met, the Examiner has not met the burden of establishing a *prima facie* case of obviousness, and the rejection should be withdrawn.

Furthermore, each dependent claim includes all of the limitations of the independent claim from which it depends. If an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. MPEP §2143.03, citing *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Applicant respectfully submits that the burden of establishing a *prima facie* case of obviousness has not been met.

F. The Claims are not Obvious over the Cited References

On page 2 of the Office Action, claims 1-3, 10-12 and 19-21 were rejected under 35 U.S.C. § 103 as being obvious over U.S. Publication Number 2002/0093966 to Liva, *et. al.*, ("Liva") in view of U.S. Patent Number 5,726,668 to Clement ("Clement"). The reasons that the claims patentably distinguish over the reference are addressed below.

As discussed above with respect to the rejection under 35 U.S.C. § 102, Liva is not properly cited as a reference because its filing date is later than the filing date of the present application. Although one of the applications, the '194, to which Liva ultimately claims priority has an earlier filing date than the present application, the intervening non-provisional application, the '397 application, does not contain the elements of the independent claims that were rejected. Furthermore, the other reference, Clement, also does not contain the elements of the independent claims. Moreover, there is no suggestion in the subject matter of the '397 application in view of Clement to combine the teachings of same to arrive at the claimed subject matter. Accordingly, the claims patentably distinguish over the reference, and withdrawal of the rejection is respectfully requested.

Claim 1 claims a panel coupled to the rear of the CMTS having at least one pair of first and second openings there through where the first and second openings being proximately located to one another, a connector passing through the first opening and coupled to an electronic circuit card installed at the front of the CMTS, and a light source that is visible through the second opening, the illumination status of which is determined by the corresponding electronic circuit card. The '397 application does not discuss multiple connectors for corresponding multiple channels being located on an opposite side of CMTS from the channels' card. Moreover, '397 does not disclose a status light located proximate the channel connector to which it corresponds to facilitate proper connection of cables to the connectors. Indeed, the general thrust of '397 is to combine upstream channels into a single connector to reduce cabling to the CMTS. Thus, if anything, '397 teaches away from the elements of claim 1. Furthermore, Clement does not teach placing a status light near a cable connection. Notwithstanding that Clement addresses providing status of processes in a chemical manufacturing plant, the display that are discussed in Clement are intended to be located in a control room, which is

remote from the process parameter being monitored. In contrast, the status lights in claim 1 are located proximate the channel connector to which a cable is connected, or to be connected. Thus, Clement does not disclose a status light that indicates status of the channel served by the connector to which it is proximately located, and if anything teaches away from proximate location. Accordingly, the subject matter claimed in claim 1 is not found in portion of Liva that may be found in '194, the basis of priority of '397, in view of Clement, nor is there a suggestion in the references to combine the references to arrive at the claimed subject matter. Therefore, claim 1 patentably distinguishes over the references.

Similar analysis applies to independent claims 10 and 19. Therefore, they also patentably distinguish over the references. Furthermore, dependent claims 2-3, 11-12 and 20-21 depend from claims 1, 10 and 19 respectively. Therefore, under MPEP §2143.03, as discussed above, they to patentably distinguish over the references. Accordingly, withdrawal of the rejection of claims 1-3, 10-12 and 19-21 is respectfully requested.

On page 7 section 3 of the Office Action, claims 4-9, 13-18 and 22-27 are rejected under 35 U.S.C. § 103 as being obvious over Liva in view of Clement and further in view of U.S. Patent Number 6,798,341 to Eckel, et. al. These are all dependent claims. Since the independent claims from which the dependent claims addressed in this section depend patentably distinguish over the references as discussed above, and are not rejected in this section 3 of the Office Action, they are not obvious under 35 U.S.C. § 103, and MPEP §§2142; §2143.03. Withdrawal of the rejection is respectfully requested.

SUMMARY

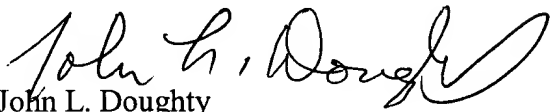
For all the reasons advanced above, Applicant respectfully submits that the application is in condition for allowance and that action is earnestly solicited.

If the Examiner believes that there are any issues that can be resolved by a telephone conference, or that there are any informalities that can be corrected by an Examiner's amendment please contact the undersigned at the mailing address, telephone, facsimile number, or e-mail address indicated below.

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